

**UNITED STATES BANKRUPTCY COURT  
FOR THE NORTHERN DISTRICT OF ALABAMA**

IN RE:

**WILLIAM BARRIER ROBERTS,  
  
DEBTOR.**

§  
§  
§  
§  
§  
§

**CHAPTER 11**

**CASE NO. 18-83442-CRJ11**

**LIMITED RESPONSE BY SMARTBANK, SUCCESSOR BY MERGER TO  
SOUTHERN COMMUNITY BANK TO DEBTOR'S EMERGENCY MOTION  
FOR AUTHORITY TO SELL REAL PROPERTY OF THE ESTATE FREE  
AND CLEAR OF ALL LIENS AND ENCUMBRANCES.**

COMES NOW SmartBank, successor by merger to Southern Community Bank, ("Bank") by and through its attorney of record, and files this response to Debtor's Emergency Motion for Authority to sell Real Property of the Estate Free and Clear of all Liens and Encumbrances and in response to the same states as follows:

1. On about November 1, 2019 Bank foreclosed on closed its' second Priority Mortgage on real property owned by Debtor, William Barrier Roberts and Shannan League Roberts located at 2203 Annandale Road, SE, Huntsville, Alabama 35801. Bank's credit bid was the successful bid. A true and correct copy of the recorded Foreclosure Deed is attached hereto and incorporated herein as Exhibit "A".

2. Subsequent to the foreclosure sale, Debtor, by and through his attorney of record transmitted a Demand for Lawful Redemption Charges to counsel for Bank. A true and correct copy of the Bank's timely Response to the Demand for Lawful Charges is attached hereto and incorporated herein as Exhibit "B".

3. Based upon Paragraph 6 of the Debtor's Motion, it appears that both the Debtor and Shannan League Roberts intend to redeem the real property from the foreclosure sale pursuant to their outstanding right of redemption under the terms of the Alabama Code.

4. Without waiving any requirements of the Alabama Code, Bank has no objection to the redemption as long as the redemption amount is paid in full from the sales proceeds of the transaction.

WHEREFORE, Bank moves this Honorable Court to enter an Order requiring the redemption proceeds due Bank be paid in full through the proceeds of any sale of the real property currently owned by Bank, and grant to Bank such other and further relief to which it may be entitled.

/s/ Justin B. Little  
Justin B. Little  
Attorney for SmartBank  
Code No. LITTJ1256

OF COUNSEL:  
REYNOLDS, REYNOLDS & LITTLE, LLC  
Post Office Box 2863  
Tuscaloosa, Alabama 35403  
Telephone: 205-391-0073  
Email: [jlittle@rrllaw.com](mailto:jlittle@rrllaw.com)  
Our File No. 47.0097

**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the above and foregoing Motion for Relief from Co-Debtor Stay has been served upon the following electronically on this the 12<sup>th</sup> day of December, 2019:

Stuart M. Maples, Esq.  
Maples Law Firm, PC  
Email: [smaples@mapleslawfirmpc.com](mailto:smaples@mapleslawfirmpc.com)

Richard Blythe  
Bankruptcy Administrator  
Email: [richard\\_blythe@alnb.uscourts.gov](mailto:richard_blythe@alnb.uscourts.gov)

All parties requesting notice via CM/ECF

/s/ Justin B. Little  
Of Counsel for SmartBank

Response to Emergency Motion.47.0097

**EXHIBIT  
A**

Doc ID: 022360590006 Type: DEEDFC  
 Filed/Cert: 11/01/2019 04:15:00 PM  
 Fee Amt: \$38.25 Page 1 of 6  
 Deed Tax: \$0.00  
 Madison County, AL  
 FRANK BARGER Probate Judge

File **2019-00071711**

**STATE OF ALABAMA**  
**COUNTY OF MADISON**

§  
§  
§

**MORTGAGE FORECLOSURE DEED**

**KNOW ALL MEN BY THESE PRESENTS THAT, WHEREAS,** heretofore, on the 29<sup>th</sup> day of January, 2014, William Barrier Roberts, husband of Shannan Roberts and Shannan Roberts, wife of William Barrier Roberts, executed a certain mortgage on property hereinafter described to Southern Community Bank, predecessor in interest to SmartBank, which said mortgage is recorded as Instrument No. 20140214000077700 in the Office of the Probate Judge in Madison County, Alabama; and

**WHEREAS,** in and by said mortgage, the mortgagee, its successors or assigns were authorized and empowered in the event of default, according to the terms thereof, to sell said property before the main entrance of the Courthouse in the City of Huntsville, Madison County, Alabama, after giving notice of the time, place and terms of said sale in some newspaper published in said County by publication once a week for three (3) consecutive weeks prior to said sale which was originally scheduled for October 9, 2019, at which time the same was continued until November 1, 2019 at 12:00 p.m. and an additional publication was ran on October 23, 2019, prior to said sale at public outcry for cash, to the highest bidder, and said mortgage provided that in case of sale under the power and authority contained in same, the mortgagee or any person conducting said sale for the mortgagee was authorized to execute the proper conveyance to the purchaser at said sale; and it was further provided in and by said mortgage that the mortgagee may bid at the sale and purchase said property if the highest bidder therefore; and

**WHEREAS,** default was made in the payment of the indebtedness secured by said mortgage, and the same Southern Community Bank, predecessor in interest to SmartBank did

ATTN: PICK UP  
 LANIER FORD RECORDING

X

**Instrument #: 2019-00071711 Seq: 1**

declare all of the indebtedness secured by said mortgage due and payable and said mortgage subject to foreclosure as therein provided and did give due and proper notice of foreclosure of said mortgage by publication in the *Madison County Record*, a newspaper of general circulation, published in Madison County, Alabama, in its issues of September 18, 2019, September 25, 2019, October 2, 2019 and October 23, 2019; and

**WHEREAS**, on November 1, 2019, the day on which said foreclosure sale was due to be held under the terms of said notice between the legal hours of sale, said foreclosure was duly and properly conducted and Justin B. Little, as Attorney-in-Fact for the said Southern Community Bank, predecessor in interest to SmartBank did offer for sale and sell at public outcry, at the main entrance of the Courthouse in Madison County, Alabama, the property hereinafter described; and

**WHEREAS**, Justin B. Little was the auctioneer who conducted said foreclosure sale for the said Southern Community Bank, predecessor in interest to SmartBank; and

**WHEREAS**, the said Southern Community Bank, predecessor in interest to SmartBank was the highest bidder in the amount of Two Hundred Fifteen Thousand Dollars (\$215,000.00) which sum of money Southern Community Bank, predecessor in interest to SmartBank offered to apply to the costs of foreclosure and credit the remaining balance on the indebtedness secured by said mortgage, and said property was thereupon sold to Southern Community Bank, predecessor in interest to SmartBank.

**NOW, THEREFORE, IN CONSIDERATION OF THE PREMISES**, and of a credit bid in the amount of Two Hundred Fifteen Thousand Dollars (\$215,000.00) on the indebtedness secured by said mortgage, the said William Barrier Roberts and Shannan Roberts and Southern Community Bank, predecessor in interest to SmartBank, by and through Justin B. Little, the person acting as auctioneer and conducting said sale as their duly authorized agent and Attorney-in-Fact

and as auctioneer does hereby **GRANT, BARGAIN, SELL and CONVEY** unto Southern Community Bank, predecessor in interest to SmartBank the following described property situated in Madison County, Alabama, to-wit:

Lot 6, Block 1, Briarcliff Subdivision, according to the map or plat of said subdivision on file and of record in the Office of the Judge of Probate of Madison County, Alabama, in Plat Book 2 at Page 193.

AND

A 15 foot strip of land being more particularly described as commencing at the Center of the North Boundary of the Southwest Quarter of Section 5; Township 4 South, Range 1 East of the Huntsville Meridian, Madison County, Alabama. Thence South 89 degrees 20 minutes East 422.05 feet to a 5/8 inch rebar found at the Northwest corner of a tract of land conveyed to William Barrier Roberts and Shannan Roberts in Document Number 20120515000299880 in the office of the Judge of Probate, Madison County, Alabama; thence South 02 degrees 05 minutes 00 seconds West 154.47 feet to a Mag. Nail on the northerly right of way margin of Big Cove Road; Thence along said margin, North 82 degrees 27 minutes 04 seconds East 9.67 feet to the Point of Beginning;

Thence from the Point of Beginning and leaving said Big Cove Road, around a curve to the right, having a radius of 266.86 feet, to a chord bearing and distance of North 23 degrees 34 minutes 53 seconds East 166.27 feet to the south boundary line of Lot 6, Block 1, Briarcliff Subdivision First Addition as recorded in Plat Book 2, Page 293 in the office of the Judge of Probate, Madison County, Alabama; Thence along said south boundary, South 89 degrees 20 minutes 00 seconds East 20.37 feet; thence leaving said subdivision, around a curve to the left, having a radius of 251.86 feet, a chord bearing and distance of South 25 degrees 29 minutes 53 seconds West 166.32 feet to the Northerly right of way margin of said Big Cove Road; Thence along said margin, South 82 degrees 27 minutes 04 seconds West 15.42 feet to the Point of Beginning and containing 0.058 acres more or less.

Together with the hereditaments and appurtenances thereunto belonging and all fixtures now attached to and used in connection with the premises herein described, subject to right of way easements and restrictions of record in the Probate Office of Madison County, Alabama and

existing special assessments, if any, which might adversely affect the title to the above described property.

**TO HAVE AND TO HOLD** the above described property unto Southern Community Bank, predecessor in interest to SmartBank, its successors and assigns forever; subject, however, to existing ad valorem taxes, subject to the statutory right of redemption on the part of those entitled to redeem as provided by the laws of the State of Alabama and the United States of America, and a first priority mortgage in favor of GMFS, LLC/Specialized Loan Servicing, LLC..

**IN WITNESS WHEREOF**, the said William Barrier Roberts and Shannan Roberts and Southern Community Bank, predecessor in interest to SmartBank have caused this instrument to be executed by and through Justin B. Little as auctioneer conducting said sale and as Attorney-in-Fact for all parties separately, has hereto set his hand and seal on this the 1<sup>st</sup> day of November, 2019.

WILLIAM BARRIER ROBERTS and  
SHANNAN ROBERTS

BY: 

Justin B. Little  
Attorney-in-Fact

SOUTHERN COMMUNITY BANK,  
PREDECESSOR IN INTEREST TO  
SMARTBANK

BY: 

Justin B. Little  
as Attorney-in-Fact and Agent



Justin B. Little as the auctioneer  
and person making said sale

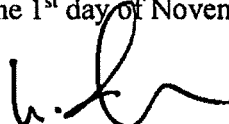
STATE OF ALABAMA

COUNTY OF TUSCALOOSA

I, the undersigned, A Notary Public in and for said County and State, hereby certify that Justin B. Little, whose name as Attorney-in-Fact for William Barrier Roberts and Shannan Roberts, whose name as Attorney-in-Fact and agent for Southern Community Bank, predecessor in interest to SmartBank, and whose name as auctioneer and person making said sale, is signed to the foregoing conveyance, and who is known to me, acknowledged before me, on this day, that, being informed of the contents of the conveyance, he, in his capacity as such Attorney-in-Fact, agent, and as such auctioneer, executed the same voluntarily on the day the same bears date.

Given under my hand and official seal this the 1<sup>st</sup> day of November, 2019.



  
\_\_\_\_\_  
Notary Public

My Commission Expires: 8-20-20

THIS INSTRUMENT PREPARED BY:  
Justin B. Little, Esq.  
REYNOLDS, REYNOLDS, & LITTLE, LLC  
Attorneys at Law  
Post Office Box 2863  
Tuscaloosa, Alabama 35403-2863  
205-391-0073  
Our File No. 47.0097

Foreclosure Deed.47.0097



## Real Estate Sales Validation Form

***This Document must be filed in accordance with Code of Alabama 1975, Section 40-22-1***Grantor's Name William and Shannan RobertsGrantee's Name Southern Community Bank,  
predecessor in interest to SmartBankMailing Address 2115 Big Cove Road  
Huntsville, AL 35801Mailing Address 5401 Kingston Pike Suite 600  
Knoxville, TN 37919Property Address 2203 Annandale Rd, SE  
Huntsville, AL 35801Date of Sale November 1, 2019Total Purchase Price \$215,000.00

or

Actual Value

\$

or

Assessor's Market Value \$

The purchase price or actual value claimed on this form can be verified in the following documentary evidence:  
(check one) (Recordation of documentary evidence is not required)

☐ Bill of Sale☐ Appraisal☐ Sales Contract☐ Other☐ Closing Statement

If the conveyance document presented for recordation contains all of the required information referenced above, the filing of this form is not required.

**Instructions**

Grantor's name and mailing address - provide the name of the person or persons conveying interest to property and their current mailing address.

Grantee's name and mailing address - provide the name of the person or persons to whom interest to property is being conveyed.

Property address - the physical address of the property being conveyed

Filed/Cert: 11/01/2019 04:15:00 PM  
Fee Amt: \$38.25 Page 6 of 6  
Deed Tax: \$0.00  
Madison County, AL  
FRANK BARGER Probate Judge

Date of Sale - the date on which interest to the property was conveyed.

File **2019-00071711**

Total purchase price - the total amount paid for the purchase of the property conveyed by the instrument offered for record.

Actual value - if the property is not being sold, the true value of the property, both real and personal, being conveyed by the instrument offered for record. This may be evidenced by an appraisal conducted by a licensed appraiser or the assessor's current market value.

If no proof is provided and the value must be determined, the current estimate of fair market value, excluding current use valuation, of the property as determined by the local official charged with the responsibility of valuing property for property tax purposes will be used and the tax payer will be penalized pursuant to Code of Alabama 1975 § 40-22-1 (h).

I attest, to the best of my knowledge and belief that the information contained in this document is true and accurate. I further understand that any false statements claimed on this form may result in the imposition of the penalty indicated in Code of Alabama 1975 § 40-22-1 (h).

Date November 1, 2019Print Justin B. Little

Unattested

(verified by)

Sign

(Grantor/Grantee/Owner/Agent) circle one

**REYNOLDS, REYNOLDS & LITTLE, LLC**  
**ATTORNEYS AT LAW**

Robert P. Reynolds ■  
Robert D. Reynolds  
Justin B. Little •  
Amelia K. Steindorff •

2115 11th Street  
Post Office Box 2863  
Tuscaloosa, Alabama 35403-2863  
Phone (205) 391-0073 • Fax (205) 391-0911  
www.rrlaw.com

Gilbert C. Steindorff, IV  
J. Heath Loftin ▲  
Ryan R. Hendley ♦  
William E. McCartney

♦ Also Admitted In Georgia  
• Also Admitted In Mississippi  
▲ Also Admitted In Tennessee

■ Board Certified in Business &  
Consumer Bankruptcy Law by the  
American Board of Certification

November 6, 2019

Stuart M. Maples, Esq.  
200 Clinton Avenue West, Suite 1000  
Huntsville, AL 35801

RE: SmartBank, successor by merger  
to Southern Community Bank/Roberts  
Our File No. 47.0097

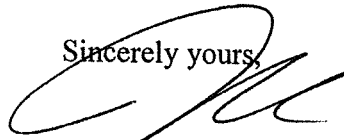
Dear Stuart:

Our firm serves as counsel to SmartBank, successor by merger to Southern Community Bank in the above referenced matter. This letter follows my review of your request for an informal demand for lawful charges pursuant to Alabama Code Section 6-5-252, as amended. As such, this letter will serve as our response to your demand for lawful charges. The amounts required in order to redeem the property from the foreclosure sale in this matter are as follows:

1) Purchase price paid at sale:	\$215,000.00
2) Interest accruing on said amount at a rate of 12% pursuant to Alabama Code 8-8-10:	\$ 353.43
3) Recording Cost:	<u>\$ 38.25</u>
Total redemption amount as of November 6, 2019:	\$215,391.68

For your files I attach a copy of the recorded foreclosure deed hereto. I look forward to your response.

Sincerely yours,



Justin B. Little  
Attorney for SmartBank, successor by  
merger to Southern Community Bank

JBL/sm

Enclosure

110619.sm.letter.47.0097

Birmingham

Montgomery

Tuscaloosa